

REMARKS

Claims 5, 9, and 12 - 16 were pending in the application. Claims 1- 16 have been cancelled without prejudice. New claims 17-20 have been added. Support for new claims 17-20 can be found in the specification and claims as originally filed. No new matter has been added.

Applicants wish to thank Examiner Pohnert for participating in a telephonic interview on August 19, 2010. The rejection of claims 5, 9 and 12-16 under 35 U.S.C. §112, first paragraph was discussed. In particular, the participants discussed amending the pending claims as suggested by the Examiner at pages 3-4 of the Office Action. Applicants agreed to file claims in accordance with the claim language proposed by the Examiner at pages 3-4 of the Office Action.

Claim Objections

The Examiner has objected to claims 5, 9, and 12 -16. Applicants assert that in view of the cancellation of claims 5, 9 and 12-16 the objection is rendered moot.

Rejections Under 35 USC §112, First Paragraph

The Examiner has rejected claims 5,9 and 12-16 under 35 U.S.C. §112, First Paragraph.

The Examiner states at pages 3-4 of the Office Action that claims 5, 9 and 12-16 are enabling for:

“a method of predicting phospholipidosis induction potential in a human cell[s] for a test compound comprising:

A) treating at least ten samples of the human cells with different compounds known to induce phospholipidosis, determining the level of expression of SEQ ID NO 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23 from the samples treated with compounds known to induce phospholipidosis and ten control samples of the human cells not treated with the

compounds; determining the average value of the expression variation rate for SEQ ID NO 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23 relative to the control samples

B) treating a sample of the human cells with a test compound of unknown phospholipidosis inducing potential; determining the level of expression of SEQ ID NO 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23 from the sample treated with a test compound of unknown phospholipidosis inducing potential and control samples not treated with the compound of unknown phospholipidosis inducing potential; determining the average value of the expression variation rate for SEQ ID NO 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21 and 23 relative to the control samples

C) comparing the average value of expression variation of the test compound of unknown phospholipidosis inducing potential and the average value of expression variation in part A) and predicting the test compound of unknown phospholipidosis in the human cells tested.

Without acquiescing to the rejection and purely to expedite prosecution Applicants have cancelled claims 5, 9 and 12-16.

In response to the Examiners statement at pages 3-4 of the Office Action wherein the Examiner discusses the method of the invention that the Examiner believes is enabled by the instant specification, and further in response to the Examiner's comments made during the Examiner interview, Applicants have added new claims 17-20. Applicants believe that new claims 17-20 are in accordance with the Examiner's suggested claim language and are properly enabled.

Applicants assert that in view of the teachings of the specification, one of skill in the art would be fully enabled to practice the invention as claimed in new claims 17-20 of the instant application. Further, Applicants believe that the specification describes the claimed invention in sufficient detail such that one of skill in the art would conclude that the inventors have possession of the invention as claimed.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejections.

Rejections Under 35 USC §112, Second Paragraph

The Examiner has rejected claims 5, 9, and 12-16 under 35 USC §112, second paragraph.

Without acquiescing to the rejection and purely to expedite prosecution claims 5, 9 and 12-16 have been cancelled thereby rendering the rejection moot.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the foregoing rejections.

Amendment and cancellation of the claims herein are not to be construed as an acquiescence to any of the rejections/objections made in the instant Office Action or in any previous Office Action, and were done solely to expedite prosecution of the application. Applicants hereby reserve the right to pursue the claims as originally filed, or substantially similar claims in one or more subsequent patent applications.

For at least the foregoing reasons, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. Should any of the claims not be found to be in condition for allowance, the Examiner is requested to call Applicant's undersigned representative to discuss the application. Applicant thanks the Examiner in advance for this courtesy.

Respectfully submitted,

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